

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ISIS GONZALEZ RODRIGUEZ,

Plaintiff,

v.

CASE NO. 8:20-cv-1232-WFJ-SPF

KILOLO KIJAKAZI,
Acting COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,

Defendant.

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ORDER

Before the Court is (1) Plaintiff’s Complaint seeking judicial review of the Commissioner of the Social Security Administration’s (“Commissioner”) decision finding Plaintiff not disabled and denying social security disability insurance benefits (Dkt. 1), and (2) the Amended Report and Recommendation of United States Magistrate Judge Flynn after consideration of *Viverette v. Commissioner of Social Security*, 13 F. 4th 1309 (11th Cir. 2021), which was issued one day after the undersigned adopted the initial Report and Recommendation.¹ After consideration of *Viverette*, the magistrate judge now recommends that the decision

¹ This Court withdrew the prior order adopting the initial report and recommendation and directed the parties to address *Viverette*. Dkt. 31.

of the Commissioner be reversed and the matter remanded for further proceedings (Dkt. 34). The Commissioner filed an objection. Dkt. 38.

When a party makes timely and specific objections to the report and recommendation of the magistrate judge, the district judge shall conduct a *de novo* review of the portions of the record to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); *Jeffrey S. v. State Bd. of Educ. of State of Ga.*, 896 F.2d 507, 512 (11th Cir. 1990). After such independent review, the Court may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); *Macort v. Prem., Inc.*, 208 F. App'x 781, 783–84 (11th Cir. 2006) (citing published opinions).

Having conducted a *de novo* review of the record in view of *Viverette*, the Court agrees with the thorough and well-reasoned report of the magistrate judge. It is therefore **ORDERED AND ADJUDGED** as follows:

- 1) The Commissioner's objections (Dkt. 38) are overruled.
- 2) The Amended Report and Recommendation (Dkt. 34) is approved, confirmed, and adopted in all respects and is made a part of this order.
- 3) The Commissioner's decision denying Social Security disability benefits to Plaintiff is reversed and remanded for further proceedings consistent with the Amended Report and Recommendation.

4) The Clerk is directed to reopen the case from administrative closure status, enter final judgment in favor of the Plaintiff, and thereafter close the case.

DONE AND ORDERED at Tampa, Florida, on December 27, 2021.



WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

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Counsel of Record